

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**GERALD AND GINA FREDERICK,**

Case No.

**Plaintiffs**

v.

**PORTFOLIO RECOVERY  
ASSOCIATES, LLC and  
PHILADELPHIA WRIT SERVICES,**

**Defendant.**

**NOTICE OF REMOVAL**

**PLEASE TAKE NOTICE THAT** on this date, Defendant Portfolio Recovery Associates, LLC hereby removes the above-captioned matter to this Court from the Court of Common Pleas of Philadelphia County, and in support thereof avers as follows:

1. Defendant Portfolio Recovery Associates, LLC is a defendant in a civil action originally filed on or about March 31, 2017, in the Court of Common Pleas of Philadelphia County, titled *Gerald and Gina Frederick v. Portfolio Recovery Associates, LLC and Philadelphia Writ Services*, and docketed to Case ID 170603113.

2. This removal is timely under 28 U.S.C. § 1446(b). PRA first received a copy of Plaintiff's Complaint by service on June 30, 2017.

3. Pursuant to 28 U.S.C. § 1446, attached hereto as Exhibit A are copies of all process, pleadings and orders received by PRA in the state court action.

4. The United States District Court for the Eastern District of Pennsylvania has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that Plaintiff has filed claims against Defendant alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*

5. On this date, PRA has provided notice of this removal to all parties. Upon assignment of a docket number, Defendant will provide notice of this removal to the Court of Common Pleas of Philadelphia County, Pennsylvania.

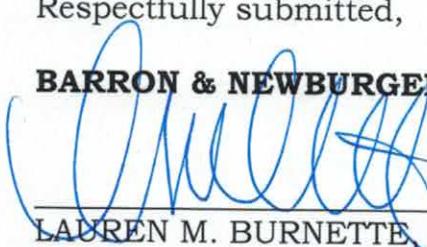
6. Defendant Philadelphia Writ Services consents to removal. See Exhibit B.

WHEREFORE, Defendant Portfolio Recovery Associates, LLC removes this case to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

**BARRON & NEWBURGER, P.C.**

By:

  
LAUREN M. BURNETTE, ESQUIRE

PA I.D. No. 92412  
450-106 State Road 13 N., Suite 326  
St. Johns, FL 32259  
(904) 201-9120

[lburnette@bn-lawyers.com](mailto:lburnette@bn-lawyers.com)

Counsel for Defendant Portfolio Recovery  
Associates, LLC

Dated: July 28, 2017

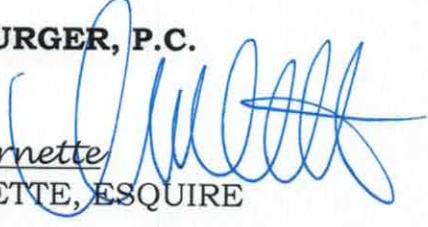
**CERTIFICATE OF SERVICE**

I certify that on July 28, 2017, a true copy of the foregoing document was served on the persons below via electronic means:

Fred E. Davis, Esquire  
Davis Consumer Law Firm  
500 Office Ctr. Drive  
Suite 400  
Ft. Washington, PA 19034  
*Counsel for Plaintiff*

Lauren B. Plevinsky  
Billet Hillsley LLC  
2000 Market Street, Suite 2803  
Philadelphia, PA 19103  
*Counsel for Defendant Philadelphia Writ Services*

**BARRON & NEWBURGER, P.C.**

By: /s/ Lauren M. Burnette   
LAUREN M. BURNETTE, ESQUIRE  
PA I.D. No. 92412  
450-106 State Road 13 N., Suite 326  
St. Johns, FL 32259  
(904) 201-9120  
[lburnette@bn-lawyers.com](mailto:lburnette@bn-lawyers.com)  
Counsel for Defendant Portfolio Recovery  
Associates, LLC

Dated: July 28, 2017

# **EXHIBIT A**

Court of Common Pleas of Philadelphia County  
Trial Division

## Civil Cover Sheet

PLAINTIFF'S NAME  
GERALD FREDERICK

PLAINTIFF'S ADDRESS  
520 SUSQUEHANNA RD.  
PHI PA 19111

PLAINTIFF'S NAME  
GIANA FREDERICK

PLAINTIFF'S ADDRESS  
520 SUSQUEHANNA RD.  
PHI PA 19111

PLAINTIFF'S NAME

PLAINTIFF'S ADDRESS

DEFENDANT'S NAME  
PORTFOLIO RECOVERY ASSOCIATES, LLC

DEFENDANT'S ADDRESS  
140 CORPORATE BLVD  
NORFOLK VA 23502

DEFENDANT'S NAME  
PHILADELPHIA WRIT SERVICES

DEFENDANT'S ADDRESS  
1080 DELAWARE AVE  
PHI PA 19125

DEFENDANT'S NAME

DEFENDANT'S ADDRESS

TOTAL NUMBER OF PLAINTIFFS

2

TOTAL NUMBER OF DEFENDANTS

2

### COMMENCEMENT OF ACTION

Complaint  Petition Action  Notice of Appeal  
 Writ of Summons  Transfer From Other Jurisdictions

AMOUNT IN CONTROVERSY

\$50,000.00 or less  
 More than \$50,000.00

### COURT PROGRAMS

|   |   |   |                                       |
|---|---|---|---------------------------------------|
| <input checked="" type="checkbox"/> Arbitration | <input type="checkbox"/> Mass Torts     | <input type="checkbox"/> Commerce           | <input type="checkbox"/> Settlement   |
| <input type="checkbox"/> Jury                   | <input type="checkbox"/> Savings Action | <input type="checkbox"/> Minor Court Appeal | <input type="checkbox"/> Minors       |
| <input type="checkbox"/> Non-Jury               | <input type="checkbox"/> Petition       | <input type="checkbox"/> Statutory Appeals  | <input type="checkbox"/> W/D/Survival |
| <input type="checkbox"/> Other:                 |   |   |                                       |

CASE TYPE AND CODE

10 - CONTRACTS OTHER

STATUTORY BASIS FOR CAUSE OF ACTION

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)

**FILED  
PRO PROT**

JUN 28 2017

M. BRYANT

IS CASE SUBJECT TO  
COORDINATION ORDER?

YES NO

### TO THE PROTHONOTARY:

Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: GERALD FREDERICK, GIANA FREDERICK

Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY

FRED E. DAVIS

PHONE NUMBER

(855) 432-8475

FAX NUMBER

(855) 435-9294

### ADDRESS

500 OFFICE CTR DR  
SUITE 400  
FT. WASHINGTON PA 19034

SUPREME COURT IDENTIFICATION NO.

93907

### E-MAIL ADDRESS

freddavis04@aol.com

SIGNATURE OF FILING ATTORNEY OR PARTY

FRED DAVIS

### DATE SUBMITTED

Wednesday, June 28, 2017, 09:38 am

USTED ESTA ORDENADO COMPARCER EN Arbitration Hearing 1880 JFK Blvd. 5th fl. at 09:15 AM - 04/05/2018

You must still comply with the notice below. USTED TODAVIA DEBE CUJPLIR CON EL AVISO PARA DEFENDERSE.

This matter will be heard by a Board of Arbitrators at the time, date and place specified but, if one or more parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties.

There is no right to a trial *de novo* on appeal from a decision entered by a judge.

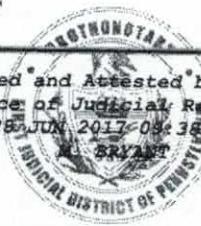
Fred Davis, Esq.

ATTORNEY FOR PLAINTIFF

Identification No 03907

DAVIS CONSUMER LAW FIRM  
500 OFFICE CTR DR-STE 400  
FT. WASHINGTON, PA 19034  
(T)1-855-432-8475/(F)1-855-435-9294  
[fdavis@usacreditlawyer.com](mailto:fdavis@usacreditlawyer.com)

Filed and Attested by the  
Office of Judicial Records  
28 JUN 2017 04:30 am  
SAYANT



GERALD AND GIANA FREDERICK  
520 Susquehanna Rd.  
Phila, PA  
19111

*Plaintiffs*

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

CIVIL ACTION

v.

PORTFOLIO RECOVERY  
ASSOCIATES, LLC  
140 Corporate Blvd.  
Norfolk, VA  
23502

DOCKET NO.:

*Defendant*

And

PHILADELPHIA WRIT SERVICES  
1080 Delaware Ave  
Phila, PA  
19125

*Defendant*

**NOTICE TO DEFEND**  
**CODE: 1900**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU  
DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR  
TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU  
CAN GET LEGAL HELP.**

**PHILADELPHIA COUNTY BAR ASSOCIATION-LAWYER REFERRAL&  
INFO SERVICE**

Philadelphia Bar Association  
1101 Market Street, 11th Floor  
Philadelphia, PA 19107  
Phone: (215) 238-6300  
Fax: (215) 238-1159

**AVISO**

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas signientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

**LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO  
TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE PAGAR TAL  
SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA  
CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR  
DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.**

**SERVICIO DE REFERENCIA LEGAL**

Colegio de Abogados de Philadelphia  
1101 Market Street, 11th Floor  
Philadelphia, PA 19107  
Phone: (215) 238-6300  
Fax: (215) 238-1159

Fred Davis, Esq.  
Identification No. 93907  
DAVIS CONSUMER LAW FIRM  
500 OFFICE CTR DR-STE 400  
FT. WASHINGTON, PA 19034  
(T)1-855-432-8475/(F)1-855-435-9294  
[fdavis@usacreditlawyer.com](mailto:fdavis@usacreditlawyer.com)

ATTORNEY FOR PLAINTIFF

GERALD AND GIANA FREDERICK  
520 Susquehanna Rd.  
Phila, PA  
19111

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

*Plaintiffs*

CIVIL ACTION

v.

PORFTOLIO RECOVERY ASSOCIATES,  
LLC  
140 Corporate Blvd.  
Norfolk, VA  
23502

DOCKET NO.:

*Defendant*

And

PHILADELPHIA WRIT SERVICES  
1080 Delaware Ave  
Phila, PA  
19125

*Defendant*

**COMPLAINT**

1. Plaintiff, GERALD FREDERICK, is an adult individual citizen and legal resident of the State of Pennsylvania, living at 520 Susquehanna Rd., Phila, Pa 19111.
2. Plaintiff, Giana Frederick, is a minor and biological child of Plaintiff Gerald Frederick, and legal resident of the State of Pennsylvania, living at 520 Susquehanna Rd., Phila, Pa 19111.

3. Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC, is a business corporation qualified to and regularly conducting business in, the Commonwealth of Pennsylvania, with its legal residence and principal place of business at 140 Corporate Blvd., Norfolk, VA, 23502. Defendant can be served at that address.

4. Defendant, PHILADELPHIA WRIT SERVICES, is a business corporation qualified to and regularly conducting business in, the Commonwealth of Pennsylvania, with its legal residence and principal place of business at 1080 Delaware Ave, Phila, PA, 19125. Defendant can be served at that address.

5. Both Defendants regularly conduct "commerce" and "trade" within meaning of 73 P.S. § 201-2(3) and within the state of Pennsylvania and county of Chester.

6. Plaintiffs aver that at all times material hereto, Defendants acted by and through their authorized agents, servants, officers, and/or employees, including Defendant, all of whom were acting within the scope of their employment.

**JURISDICTION AND VENUE**

7. Defendants regularly conduct business in the State of Pennsylvania and in the County of Philadelphia, therefore, personal jurisdiction is established. Additionally, the harm caused by Defendants occurred in Pennsylvania and was directed exclusively at residents of Pennsylvania.

8. Venue is proper in Philadelphia County pursuant to Pennsylvania Rules of Civil Procedure 1006 and 2179, as some/all of the transactions at issue occurred in Philadelphia County.

**FACTUAL ALLEGATIONS**

9. On or about April 5, 2017, Defendant Portfolio Recovery

Associates, LLC filed a lawsuit against Plaintiff Gerald Frederick in the Philadelphia Municipal Court, bearing docket no.: SC-17-04-05-3483. *See Exhibit "A".*

10. Defendant alleged it had standing to file and prosecute the lawsuit because, it further alleged, the underlying account/debt (a "CIT ONLINE/DELL FINANCIAL SERVICES" account ending in #3644) had ultimately been sold to Defendant, albeit after multiple prior assignments. *See Exhibits "B" and "C".*

11. Defendant categorized the account/debt as a "consumer purchase", and claimed it was entitled to \$4,349.74 in damages and court costs. *See Exhibit "A".*

12. Plaintiffs allege and aver that, at some point thereafter but before April 20, 2017, Defendant Portfolio Recovery Associates, LLC retained the services of "Philadelphia Writ Services", of whom, Plaintiffs allege and aver, William C. Cox is an employee.

13. Plaintiffs allege and aver that, on or about April 20, 2017, William C. Cox appeared at Plaintiffs' residence, 520 Susquehanna Rd., Phila, Pa 19111.

14. Plaintiffs allege and aver that Mr. Cox began banging on the door and demanded entry, while Giana Frederick was the only one home at that time.

15. Plaintiffs allege and aver that Plaintiff Giana Frederick informed Mr. Cox that she was home alone, and was only 14 years old.

16. Plaintiffs allege and aver that Mr. Cox nonetheless barged in and threw the documents comprising Defendant Portfolio Recovery's lawsuit at minor Plaintiff Giana Frederick, who was terrified.

17. Plaintiffs allege and aver that Plaintiff Giana Frederick was extremely

upset and dismayed and she immediately called her mother, sobbing, and asked her to return home immediately to ease her anxiety and terror.

18. Plaintiffs allege and aver that Defendant Portfolio Recovery Associates, LLC subsequently called them with a request to "settle" the alleged debt. Plaintiff Gerald Frederick, fearing for his family's safety, reluctantly agreed and provided bank account information for funds to be withdrawn, hoping this would end the nightmare.

19. Plaintiffs allege and aver that funds had already been withdrawn from their bank accounts, but when Plaintiff Gerald Frederick called Defendant Portfolio Recovery Associates, LLC to acquire written confirmation of the settlement, he received only obstruction and indifference.

20. Plaintiffs allege and aver that upon thinking more about the situation, they decided to retain counsel and defend the matter.

21. On or about May 10, 2017, counsel for Plaintiff Gerald Frederick entered his appearance, and informed Defendant Portfolio Recovery Associates, LLC of his appearance as counsel and that no further funds were to be withdrawn from any accounts, because the matter was in dispute.

22. On or about May 16, 2017, Defendant Portfolio Recovery Associates, LLC requested and was granted a continuance, with a trial scheduled for June 16, 2017.

23. On or about June 16, 2017, Defendant Portfolio Recovery Associates, LLC failed to appear for trial and judgment by default was entered on behalf of Plaintiff Gerald Frederick.

**COUNT I-AS TO PORTFOLIO RECOVERY ASSOCIATES, LLC**  
**THE FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA")**

24. In its actions to collect a disputed debt, Plaintiffs allege and aver that Defendant Portfolio Recovery Associates, LLC violated the FDCPA in one or more of the following ways:

a. Defendant misrepresented the status and amount of the alleged debt, as there was no proof Plaintiff owed anything, and Defendant thereby violated 15 U.S.C §1692e.

b. Defendant repeatedly and continuously called Plaintiff telephonically, as well as unrelated third-parties, at irregular times and places, and often times failed to identify itself and inform Plaintiff of his rights, in violation of 15 U.S.C. §§ 1692c(a)(1) and d.

c. Defendant sought to collect amounts comprised largely of improper fees and/or interest, and Defendants' collection efforts were thus in violation of 15 U.S.C. §§1692e and f.

d. Defendant's lawsuit was a ruse designed to coerce a settlement on an otherwise frivolous lawsuit, as evidenced by the absence of documentary proof and failure to appear for trial, and Defendant thereby violated 15 U.S.C. §1692e(5). *See Exhibit "B".*

e. Defendant misrepresented that it had viewed and/or possessed computerized records and hard copy documents evidencing the opening of the alleged account, when in fact Defendant never produced any executed account agreement or other signed documents demonstrating the opening of any account. Specifically, Plaintiffs allege and aver that the affidavit of Sharonetta Rodgers is replete with

falsehoods pertaining to documents she reviewed, when in fact she merely reviewed a computer screen containing the minimal information allegedly produced by the original creditor in data files and she never reviewed any documents such as account applications, terms and conditions of contracts, payment histories, monthly credit card statements totaling \$4,232.74 in charges or fees/costs, or charge slips. *See Exhibit "C".* Plaintiffs allege and aver that Defendant thereby violated 15 U.S.C. § 1692e(10).

e. Defendant misrepresented that an unsigned and undated document containing generic terms applied to Plaintiff's alleged account. Plaintiffs allege and aver that Defendant thereby violated 15 U.S.C. §§ 1692e(2)(a) and (10).

f. Despite receiving notice that Defendant had actual knowledge that Plaintiff disputed the debt and demanded a trial date, Defendant failed to timely notify the relevant credit bureau and update the status of the alleged debt as disputed. Plaintiffs allege and aver that Defendant thereby communicated false credit information about Plaintiff, in violation of 15 U.S.C. § 1692e(8).

g. Plaintiff further alleges and avers that despite failing to appear for trial, Defendant continued reporting the full amount of the alleged debt as delinquent/disputed, and/or failed to timely notify the relevant credit bureau and update the amount of the judgment. Plaintiffs allege and aver that Defendant thereby communicated false credit information about Plaintiff, in violation of 15 U.S.C. § 1692e(8).

h. Plaintiff further alleges and avers that the above conduct, as well as Defendants' willful violations of the provisions of 2015 CFPB 0023 (requiring the

acquisition and production of a minimal amount of authentic information establishing the veracity of the alleged debt and allegations within Defendants' lawsuit prior to filing that lawsuit) violated numerous provisions of 15 U.S.C. §§ 1692e(2), (5) and 15 U.S.C. § 1692f(1).

i. Plaintiffs allege and aver that Defendants' collection efforts surrounding this alleged debt caused Plaintiff to suffer material and ascertainable losses including, but not limited to: loss of time from work investigating the matter, time wasted attending to incessant communications, and all fees and costs associated with a legal investigation.

WHEREFORE, Plaintiffs, GERALD AND GIANA FREDERICK, respectfully pray for a judgment as follows:

- a. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiffs pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

**COUNT II-AS TO BOTH DEFENDANTS**  
**NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

25. Plaintiffs hereby incorporate the preceding paragraphs by reference as through fully set forth.

26. Defendants knew, or reasonably should have known that the conduct described herein would and did proximately result in physical and emotional distress to Plaintiff.

27. At all relevant times, Defendants had the power, ability, authority and duty to stop engaging in the conduct described herein and/or to intervene or prohibit said conduct.

28. Despite said knowledge, power and duty, Defendants negligently failed to act so as to stop engaging in the conduct described herein and/or to prevent or prohibit such conduct or otherwise protect Plaintiff. To the extent said negligent conduct was perpetrated by certain other Defendants, the instant Defendants confirmed and ratified said conduct with knowledge that Plaintiffs' emotional and physical distress would thereby increase, and with a wanton and reckless disregard for the deleterious consequences to Plaintiff.

29. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have suffered and continues to suffer serious emotional distress, humiliation, anguish, emotional and physical injuries, as well as economic losses, all to her damage in amounts to be proven at trial.

30. Plaintiffs allege and aver that as a direct and proximate result of Defendants' conduct, Plaintiffs suffered severe and extreme emotional distress which includes, but is not limited to, harassment inflicted by Defendants' employees, agents and related representatives stemming from Defendants' attempt to intimidate Plaintiffs by forcing its lawsuit upon minor Plaintiff Giana Frederick, and misrepresented the existence and its possession of documentary evidence and of an amount of the alleged debt for which it knew no proof existed and misrepresentations surrounding the alleged debt.

31. Plaintiffs hereby demand actual, compensatory and punitive damages for these violations.

**COUNT III-AS TO BOTH DEFENDANTS**  
**INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

32. Plaintiffs hereby incorporate the preceding paragraphs by reference as through fully set forth.

33. Plaintiffs allege and aver that Defendants' conduct was extreme and outrageous, in that it maliciously employed legal processes to intimidate Plaintiffs by forcing its lawsuit upon minor Plaintiff Giana Frederick, and misrepresented the existence and its possession of documentary evidence and of an amount of the alleged debt for which it knew no proof existed.

34. Plaintiffs allege and aver that Defendants' conduct was undertaken with the intent of causing, or with reckless disregard for the probability of causing, emotional distress to Plaintiff.

35. Plaintiffs allege and aver that as a direct and proximate result of Defendants' conduct, Plaintiffs suffered severe and extreme emotional distress which includes, but is not limited to, harassment inflicted by Defendants' employees, agents and related representatives which stemmed from Defendants' deliberate and vexatious collection efforts.

36. Plaintiffs hereby demands actual, compensatory and punitive damages for these violations.

**COUNT IV-AS TO BOTH DEFENDANTS**  
**THE PENNSYLVANIA UNFAIR TRADE PRACTICES ACT AND CONSUMER**  
**PROTECTION LAW ("UFTPPL")**

37. Plaintiffs hereby incorporate all facts and allegations specified in paragraphs above, by reference as if fully set forth at length.

38. Plaintiffs are "Person(s)" as defined by 73 P.S. § 201-2(2).

39. Defendants are "Person(s)" as defined by 73 P.S. § 201-2(2).

40. The Pennsylvania Unfair Trade Practices and Consumer Protection Act, 73 P.S. § 201-2(4), defines "unfair or deceptive acts or practices" to include the following:

(ii) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services;

(iii) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another;

(xvii) Engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.

41. Plaintiffs allege and aver that Defendants violated the Act by improperly disclosing sensitive financial information and misrepresenting that improper fees and exorbitant charges were part of the alleged debt.

42. Plaintiffs further allege and aver that Defendants' misrepresentations surrounding the alleged debt were done solely to confuse and deceive Plaintiffs into thinking the debt was legitimate, and Defendant thereby violated the Act.

43. The UTPCPL authorizes the Court, in its discretion, to award up to

three (3) times the actual damages sustained for violations, and/or \$100.00 for statutory damages. Plaintiffs aver entitlement to all actual and statutory damages, as well as written confirmation that Defendants has properly reported to the relevant credit bureaus accurate information surrounding the invalidation of the bogus "debt", plus treble that amount, and attorney fees and costs, for Defendants' per se and statutory violations of Pennsylvania Law.

**COUNT V-AS TO BOTH DEFENDANTS**  
**NEGLIGENCE**

44. Plaintiffs hereby incorporate all facts and allegations specified in paragraphs above, by reference as if fully set forth at length.

45. The representations upon which Defendant sold the vehicle were negligent in that Defendant knew, or should have known the true age of the person upon whom the lawsuit bearing Philadelphia Municipal Court docket no. SC-17-04-05-3483.

46. Plaintiffs aver that Defendant failed to act in accordance with its obligations, and failed to advise Plaintiffs of the truth of the illegality and that the unconscionability of its improper and aggressive forcing of the documents (comprising the lawsuit bearing Philadelphia Municipal Court docket no. SC-17-04-05-3483) upon minor Plaintiff Giana Frederick, was all for the explicit purpose of financial gain to the Defendants.

47. Plaintiffs aver that the following acts of Defendants were negligent specifically:

a. Failing to disclose an accurate depiction of the age of the person upon whom Defendants forced the documents comprising Defendants' bearing Philadelphia Municipal Court lawsuit bearing docket no. SC-17-04-05-3483;

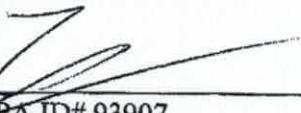
b. Failing to advise minor Plaintiff Giana Frederick of her legal rights regarding service of process;

- c. Failing to abide by laws regarding entry on premises and service of process in Philadelphia, PA;
- d. Failing to effectuate service of process in a respectful and non-aggressive manner;
- e. Failing to abide by Defendants' legal obligations to investigate whether service was properly effectuated;
- f. Failure by Defendant Portfolio Recovery Associates, LLC to properly retain and supervise the person(s) engaged in service of process on its behalf.

DAVIS CONSUMER LAW FIRM

By:

/s/

  
Fred Davis PA ID# 93907  
Attorney for Plaintiff, GERALD AND GIANA  
FREDERICK  
500 Office Center Drive-Suite 400  
Ft. Washington, PA 19034  
Tel - 1-855-432-8475/Facsimile-1-855-435-9294  
Email: [fdavis@usacreditlawyer.com](mailto:fdavis@usacreditlawyer.com)

VERIFICATION

Gerald Frederick, states that he is the adult Plaintiff herein; that he is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of his knowledge, information and belief; and that he is duly authorized to bring suit on his and Giana Frederick's behalf, and acknowledges that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

DAVIS CONSUMER LAW FIRM

By:

Gerald Frederick  
Plaintiff, GERALD FREDERICK

VERIFICATION

Giana Frederick, states that she is the minor Plaintiff herein; that she is acquainted with the facts set forth in the foregoing Complaint; that same are true and correct to the best of her knowledge, information and belief; and acknowledges that this statement is made subject to the Penalties of 18 Pa. C.S.A. §4904, relating to unsworn falsifications to authorities.

DAVIS CONSUMER LAW FIRM

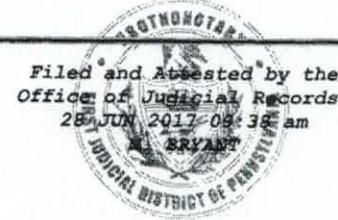
By: Giana Frederick  
Plaintiff, GIANA FREDERICK

USTED ESTA ORDENADO COMPARRECER EN Arbitration Hearing 1880 JFK Blvd. 5th fl. at 09:15 AM - 04/05/2018

You must still comply with the notice below. USTED TODAVIA DEBE CUPLIR CON EL AVISO PARA DEFENDERSE.

This matter will be heard by a Board of Arbitrators at the time, date and place specified but, if one or more parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties.

There is no right to a trial denovo on appeal from a decision entered by a Judge.



# EXHIBIT

## “A”



**PHILADELPHIA MUNICIPAL COURT**  
**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

1339 Chestnut Street, 10th Floor, Philadelphia, PA 19107

Marsha H. Neifield, President Judge Patricia R. McDermott, Deputy Court Administrator

**STATEMENT OF CLAIM**

Code: Consumer Purchase - (4)

SC/CP: # SC-17-04-05-3483

Portfolio Recovery Associates, LLC  
 140 Corporate Blvd.  
 Norfolk, VA 23502

GERALD A FREDERICK  
 520 SUSQUEHANNA RD  
 PHILADELPHIA, PA 19111

*Plaintiff(s)*

*Defendant(s)*

Service Address (Information) if other than above:

**To the Defendant:** Plaintiff is seeking a money judgment against the Defendant(s) based on the following claim:  
 Plaintiff is the purchaser, assignee, and/or successor in interest to CIT ONLINE BANK. CIT ONLINE BANK issued defendant's DELL FINANCIAL SERVICES, LLC account at the request of the defendant. Defendant used the credit account to purchase goods and/or services and now owes Plaintiff \$4232.74 with credit being given for any amounts paid by Defendant.

**Summons to the Defendant**

You are hereby ordered to appear at a hearing scheduled as follows:

**Citation al Demandado**

Por la presente, Usted esta dirijido a presentarse a la siguiente:

1339 Chestnut Street 6th Floor  
 Philadelphia, PA 19107  
 Hearing Room: 5

May 19th, 2017

10:00 AM

**Amount Claimed**

|                        |    |                |
|------------------------|----|----------------|
| Principal              | \$ | 4232.74        |
| Interest               | \$ | 0.00           |
| Attorney Fees          | \$ | 0.00           |
| Other Fees             | \$ | 0.00           |
| <b>Subtotal</b>        | \$ | <b>4232.74</b> |
| Service                | \$ | 27.00          |
| State Fee              | \$ | 10.00          |
| Automation Fee         | \$ | 5.50           |
| Convenience Fee        | \$ | 5.00           |
| JCS St. Add. Surcharge | \$ | 11.25          |
| JCS St. Add. Fee       | \$ | 2.25           |
| ATJ Fee                | \$ | 2.00           |
| ATJ Surcharge          | \$ | 10.00          |
| Court Costs            | \$ | 44.00          |
| <b>TOTAL CLAIMED</b>   | \$ | <b>4349.74</b> |

Date Filed: 04/05/2017

I am a plaintiff in this statement of claims action. I hereby verify that I am authorized to make this verification and that the facts set forth above are true and correct to the best of my knowledge, information and belief. I understand that this verification is made subject to the penalties set forth in 18 Pa. C.S. § 4904, which concerns the making of unsworn falsifications to authorities.

CARRIE A. BROWN

Signature Plaintiff/Attorney  
 Atty ID #: 094055

NOTICE TO THE DEFENDANT, YOU HAVE BEEN SUED IN COURT.  
 PLEASE SEE ATTACHED NOTICES

Address & 140 CORPORATE BOULEVARD  
 Phone NORFOLK, VA 23502  
 888-772-7326

AVISO AL DEMANDADO LE HAN DEMANDADO EN CORTE. VEA POR FAVOR  
 LOS AVISOS ASOCIADOS.

If you wish to resolve this matter without appearing in court, please contact the attorney shown above immediately.

Case ID: 170603113

**“B,”**  
**EXHIBIT**

**VERIFICATION**

(To be used by a person associated with the present creditor)

I, Sharonetta Rodgers, hereby verify that:

1. I am employed by Portfolio Recovery Associates, LLC as Custodian of Records and am authorized to make this Verification on behalf of Portfolio Recovery Associates, LLC. Portfolio Recovery Associates, LLC is the successor in interest to CIT ONLINE BANK / DELL FINANCIAL SERVICES, LLC.
2. I reviewed the following [x] (a) computerized documents; [x] (b) hard copy documents; and [ ] (c) other (specify) Account Records relating to Account number: \*~~\*\*\*\*\*~~3644. The foregoing Account of CIT ONLINE BANK / DELL FINANCIAL SERVICES, LLC was opened on March 29, 2007 in the name of GERALD A FREDERICK. The accounts/documents that I reviewed were produced by CIT ONLINE BANK / DELL FINANCIAL SERVICES, LLC.
3. Based on my review of the foregoing documents, there is due and payable the principal sum of \$4,232.74. This sum includes the following (check all that are appropriate): [ x ] interest; [ x ] late fees; [ ] collection fees; and [ x ] any other additional fees permitted under the terms of agreement with the debtor named in paragraph 2 above and CIT ONLINE BANK / DELL FINANCIAL SERVICES, LLC. This sum does not include the following (check all that are appropriate): [ ] interest; [ ] late fees; [ x ] collection fees; and [ ] any other additional fees permitted under the terms of the agreement with the debtor named in paragraph 2 above and CIT ONLINE BANK / DELL FINANCIAL SERVICES, LLC.
4. Based on my review of the foregoing documents, there are no payments that have not been credited.
5. The facts set forth in this Verification are true and correct to the best of my knowledge, information and belief. The Verification is made subject to the penalties for making an unsworn falsification to authorities in violation of 18 Pa. C.S. §4904.

MAR 22 2017

DATE

Sharonetta Rodgers, CUSTODIAN

22-08919

  
This communication is from a debt collector and is an attempt to collect a debt.  
Any information obtained will be used for that purpose.

“C”  
**EXHIBIT**

EXHIBIT A-1

TO

BILL OF SALE

The Purchased Accounts are the Charged-Off Accounts that are included in the file named FY16 FFDS FCO HR Month 11.xls dated 12/07/2015 and incorporated herein by reference, which is defined in the Agreement as the Purchased Accounts File.

**BILL OF SALE**

FOR VALUE RECEIVED, and pursuant to the terms and conditions of the Account Purchase Agreement ("Account Purchase Agreement") among WebBank ("Bank"), Dell Revolver Company L.P. ("Revolver"), and Dell Financial Services L.L.C. ("DFS"), dated January 7, 2011, Bank does hereby sell, assign and convey to DFS as Designee for Revolver, its successors and assigns, as of the charge off date thereof, title and interest of Bank in and to those certain accounts described in Schedule 1 attached hereto and made a part hereof for all purposes. Terms used herein shall have the meanings set forth in the Account Purchase Agreement.

This BILL OF SALE is executed without recourse and without representation of any warranty of collectability or otherwise, expressed or implied, except as may be specifically provided in the Program Documents.

Dated this 15<sup>th</sup> day of December, 2015.

WEBBANK

By: Kelly M. Barnett  
Name: Kelly M. Barnett  
Title: President

**EXHIBIT 5.2****BILL OF SALE**

KNOW ALL PERSONS BY THESE PRESENT that CIT BANK ("Transferor"), in consideration of the Account Transfer Agreement dated as of November 12 2009, between Transferor and WEBBANK (the "Transfer Agreement"), and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, does hereby grant, bargain, sell, transfer, assign and deliver, without recourse except as expressly set forth in the Transfer Agreement, to WEBBANK ("Transferee"), all right, title, and interest it holds in, all of the Accounts (capitalized terms used herein are as defined in the Transfer Agreement):

**TO HAVE AND TO HOLD** the same unto Transferee, its successors and permitted assigns, forever, Transferor does hereby covenant and agree that it will from time to time, as reasonably requested by Transferee, its successors and permitted assigns, do, execute, acknowledge and deliver to Transferee or its successors and permitted assigns, all further acts, transfers, conveyances, assignments, powers of attorney, and additional papers and instruments, and do or cause to be done all and any other acts or things as often as may be reasonably proper or necessary for better conveying, transferring and assigning all of the Accounts hereby conveyed, transferred and assigned, and to effectively carry out the intent hereof, and to vest in Transferee such title and interests as Transferor holds, free and clear of any lien created by Transferor, in and all of the said Accounts except for any interest of Dell Financial Services LLC and its affiliates.

**IN WITNESS WHEREOF**, Transferor, through its authorized officer, has caused this Bill of Sale to be executed in its name as of the 14th day of November, 2009.

**TRANSFEROR**

By: John Taylor  
Name: John Taylor  
Title: President

**BILL OF SALE**

FOR VALUE RECEIVED, and pursuant to the terms and conditions of the Master Account Purchase Agreement between Dell Financial Services L.L.C. ("Seller") and Portfolio Recovery Associates, LLC ("Purchaser"), dated as of 01/30/2015 ("Effective Date"), and incorporated herein by reference, Seller does hereby sell, assign, transfer, deliver and convey to Purchaser, and its successors and assigns all rights, title and interests of Seller in and to those certain Purchased Accounts described in Exhibit A - 1 attached hereto and made a part hereof for all purposes.

For purposes of this Bill of Sale the File Creation Date shall be 12/07/2015. Unless otherwise defined herein, all capitalized terms appearing in this Bill of Sale shall have the meanings defined for such terms in the Agreement.

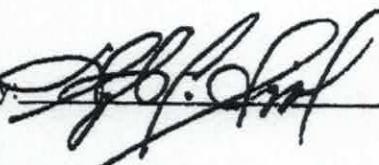
To the best of Seller's knowledge and belief, all of the information contained in the Purchased Accounts File, and Seller's Purchased Accounts Information, is and shall be true, complete, accurate and not misleading in any material respect. Further, all of the information contained in Seller's Purchased Accounts Information (a) constitutes Seller's own business records regarding the Purchased Accounts; and (b) accurately reflects in all material respects the information about the Purchased Accounts in Seller's possession. All of Seller's Purchased Accounts Information has been kept in the regular course of Seller's business, and was made or compiled at or near the time of the event and recorded by (or from information transmitted by) a person (i) with knowledge of the data entered into and maintained in Seller's business records, or (ii) who caused the data to be entered into and maintained in Seller's business records. It is the regular practice of Seller's business to maintain and compile such data.

This BILL OF SALE is executed without recourse and without any representation or any warranty of collectability or otherwise, expressed or implied, except as provided in the Account Purchase Agreement.

EXECUTED this 17<sup>th</sup> day of December, 2015

SELLER:

DELL FINANCIAL SERVICES L.L.C.

By: 

Print

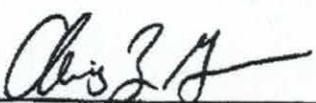
Name: Stephen Sippel

Print

Title: Executive Director, Risk Operations

PURCHASER:

PORTFOLIO RECOVERY ASSOCIATES,  
LLC

By: 

Print

Name: Chris Graves

Print

Title: Authorized Signer

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GERALD AND GINA FREDERICK,

Plaintiffs

v.

PORTFOLIO RECOVERY  
ASSOCIATES, LLC and  
PHILADELPHIA WRIT SERVICES,

Defendant.

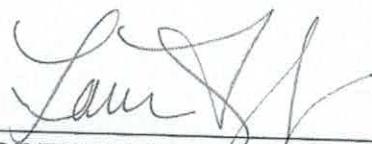
Case No.

CONSENT TO REMOVAL

Without waiving any of its defenses or any other rights, Defendant Philadelphia Writ Services hereby consents to the notice of removal of this action from the Court of Common Pleas of Philadelphia County, Pennsylvania. Removal of this action is proper for the reasons set forth in the Notice of Removal and Exhibits thereto filed by Portfolio Recovery Associates, LLC. Defendant Philadelphia Writ Services accepted service of Plaintiff's Complaint on July 21, 2017.

DATE: 7/28/17

BILLET HILLSLEY LLC

By:   
ROBERT DOUGLAS BILLET, ESQUIRE  
LAUREN BETH PLEVINSKY, ESQUIRE  
Attorneys for defendant Philadelphia  
Writ Services